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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,289	06/20/2003	Nadia Avelle	1610-97	7088

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EXAMINER

EWALD, MARIA VERONICA

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,289	<b>Applicant(s)</b> AVALLE, NADIA	
	<b>Examiner</b> Maria Veronica D. Ewald	<b>Art Unit</b> 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/17/03&amp;2/17/04</u> .   | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1 – 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase "or similar" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 states "said cases get inside said flexible molds and around the cosmetic products and are then picked up from said flexible molds together with said cosmetic products and said zone of the second carousel in which said cases are taken from said housings of the second carousel for their transfer inside said flexible molds of the first carousel and then taken back with inserted cosmetic products into said housings of the second carousel... a gripping unit... to insert them in upside-down position inside said flexible moulds of the first carousel and finally to take them back to their original position into said housings of the second carousel with said cosmetic products inserted in said cases." The phrases above: "get inside

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said flexible mold, are then picked up from said flexible molds, said cases are taken from said housings...and then taken back with inserted cosmetic products, ...to insert them in upside-down position..." all impose method/process limitations and do not impose any further physical limitations to the apparatus being claimed and thus, render the claims indefinite.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Featherstone, et al. (U.S. 4,172,113) in view of Kuo (U.S. 6,022,209). Featherstone, et al. teach a cosmetics casting apparatus with a mobile support (item 1 – figures 1, 2, column 2, line 26) for a plurality of housings for molds fillable with cosmetic product (item 2 – figure 2, column 2, lines 27). The mobile support is movable through a plurality of working positions comprising a position for heating the molds (item 9 – figure 1, column 2, lines 51 – 52), a position for filling the molds with poured cosmetic product (item 4 – figure 1, column 2, lines 29 – 31), a position for cooling said poured cosmetic products (item 7 – figure 1, column 2, line 35), characterized in that said heating position comprises means for introduction of warm heating air into said molds (column

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3, lines 6 – 8) and said cooling position comprises mold cooling means that operate by convection of cold air (column 3, line 60; column 4, lines 1 – 2).

Featherstone, et al., however, do not teach that the molds are flexible. In a method to make lipstick, Kuo teaches the use of a mold piece with one or more mold cavities. The reference further teaches that the mold piece is preferably made of resilient and heat-resistant materials, which may be slightly expanded and slightly deformed (column 2, lines 35 – 36, 39).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the cosmetics casting apparatus of Featherstone, et al. to incorporate the resilient mold pieces of Kuo for the purpose of ensuring that the mold piece be made of heat-resistant material and be slightly expanded to remove the lipstick material from the mold without damaging the formed piece as taught by Kuo (column 2, lines 23, 35 – 36).

Claims 2 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Featherstone, et al. and Kuo, further in view of Kok, et al. (U.S. 6,632,080), further in view of Parmelee (U.S. 5,057,259) and further in view of Wada (U.S. 4,543,702). Featherstone, et al. and Kuo teach the characteristics previously described, but do not teach that the cosmetics casting apparatus be comprised of a first and second carousel.

In a method to mold disposable lenses, Kok, et al. teach the use of a molding device with various stations and multiple carousels. The first carousel, which is primarily for the production of the lens product, has several stations – placement of a concave

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mold, filling of the mold, placement of a convex mold on top of the filled concave mold and ejection of the finished lens (column 2, lines 42 – 56). With the use of ejector members, the finished molds are transferred from the recesses of the first carousel to the second carousel (column 1, lines 47 – 50, column 2, line 58). This reads on the applicant's claim that there be a first and second carousel located one next to the other and comprising respective annular plates revolving around respective vertical axes. This further reads on the applicant's claim that the annular plates of the first and second carousels are provided with housings for flexible molds and housings for cases for the collection of the final product, respectively.

In a method to form continuous molded products, Parmelee teaches the use of a flexible mold band with multiple injection ports (column 2, lines 45 – 46). The reference further teaches that the rotary mold comprises along the run of the respective annular plate, the sequence of a zone for the introduction of warm air into said flexible molds (column 3, lines 24 – 25), a zone for pouring product into the flexible molds (column 3, lines 9 – 10), and a cooling zone operating by convection of cold air for said flexible molds (column 3, lines 45 – 46, 55 – 56).

In a method to mold and assemble lipstick products, Wada teaches a fully automated assembly with a highly coordinated operation using robots. Primary stations in the apparatus of Wada include a mold-filling unit, cooling unit, bottle supply, and bottle (case) draw-out unit. In the bottle supply unit and bottle draw-out unit, there is a zone for the grasping and transfer of cases (column 12, lines 27 – 29) from the second carousel to the flexible molds of the first carousel (column 12, lines 45 – 46), and for the

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return of said cases with inserted cosmetic product from said flexible molds to the housings of the second carousel (column 12, lines 48 – 51) and zone for the completion of the insertion of the cosmetic products inside said cases (column 10, lines 22 – 25; column 12, lines 67 – 68).

Wada further teaches that the cooling zone comprises a cooling device comprising air at room temperature that is made to circulate inside a box into which the molds are inserted (column 7, lines 23 – 25, 27 – 29, 33 – 36).

In addition, Wada teaches a gripping unit (column 7, line 45), in operation, is capable of taking empty cases (column 7, lines 46 – 47) from the housings of the second carousel and inserts them in upside-down position inside the flexible molds of the first carousel (column 8, lines 52 – 55; column 12, lines 45 - 46) and finally to take them back to their original position into said housings of the second carousel with the cosmetic product inserted in said cases (column 10, lines 22 – 24; column 12, lines 50 – 51). Wada further teaches that the gripping unit comprises a vertically, mobile head (item 101 – figure 4; column 4, line 33), a revolving hub (item 102 – figure 4; column 4, line 33), carried by said head and an arm with tongs (item 103 – figure 4; item 115 – figure 5; column 4, lines 53 – 54) for the grasping of the cases fastened to said hub in such a way as to be rotated by 180° from a position with tongs superimposed to said housings of the second carousel to a position with tongs overlapped to said housings for the first carousel and vice-versa (column 7, lines 45 – 46; column 8, lines 52 – 54; column 12, lines 52 – 54, 64 – 67). In addition, Wada teaches that the cases comprise an internal part (item 2a – figure 1a) and an external part (item 2c – figure 1a) that is

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screwable as regards said internal part for the complete insertion of said internal part and inside of said part external, and a zone for the completion of the insertion of cosmetic product into said cases, comprising a device capable to cause the mutual screwing of the internal and external parts of said cases (column 10, lines 9 – 13). The aforementioned device comprises tongs for the gripping of the internal part of the cases (column 10, lines 19 – 20), sprung bearing surfaces for the external part and revolving means connected with said bearing surfaces in such a way that their rotation causes the axial translation of said bearing surfaces (column 10, lines 20 – 23).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the cosmetics casting apparatus of Featherstone, et al. and Kuo to further incorporate the carousel assembly and production process of Kok, et al., Parmelee, and Wada, respectively, for the purposes of 1) providing a steady smooth movement path as taught by Kok, et al. (column 1, lines 40 – 41); 2) properly and uniformly heating the cosmetic product and also ensuring that the product is cooled to retain its shape as taught by Parmelee (column 3, line 32 and 53) and 3) providing a fully automated system that minimizes machine idle time, is well-suited for small-scale production and saves labor costs as taught by Wada (column 1, line 37; column 2, lines 11 – 12, 20 – 21).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Featherstone, et al. Kuo, Kok, et al. Parmelee, Wada, further in view of Clymer, et al. (4,082,491) and further in view Bazzo, et al. (US 2002/0160075 A1). Featherstone, et



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al. Kuo, Kok, et al. Parmelee, and Wada teach the characteristics previously described, but do not teach that the zone for heating of the first carousel comprises a main tube, containing a resistor and thermocouple.

In a method to mold crayons or other elongated articles, Clymer, et al. teach the use of a rotary mold. The mold table compartments are heated through a water manifold mounted on the center post (column 3, lines 36 – 37). The reference further teaches that heated water is supplied through a conduit to several compartments that then reach the mold compartments (column 4, lines 20 – 21). This reads on the applicant's claim that the heating be comprised of a main tube, that connects with a hose that supports small tubes insertable in the flexible molds.

In a method to heat an injection nozzle for the production of plastic materials, Bazzo, et al. teach the use of a heating resistor to keep the temperature of the nozzle constant. The spiral-shaped groove is made in the external side of the body in which a first heating resistor and second resistor are wound (column 1, paragraph 0010). In addition, there are two thermocouples arranged in correspondence with the nozzle end (column 1, paragraph 00140). This reads on the applicant's claim that the heating zone contains a resistance controlled by a thermocouple.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the cosmetics casting apparatus of Featherstone, et al. Kuo, Kok, et al., Parmelee, and Wada, to further incorporate the heating configuration of Clymer, et al. with the thermocouple and resistor of Bazzo, et al. for the purpose of heating all the

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mold compartments and ensuring that the cosmetic product be kept at a specified temperature as taught by Bazzo, et al.

### **Conclusion**

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Veronica D. Ewald whose telephone number is 571-272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MVE

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6/17/05  
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